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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,801	11/29/2001	Yoshihisa Fujiwara	011612	9176

23850 7590 09/12/2003

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EXAMINER
THANH, QUANG D

ART UNIT	PAPER NUMBER
3764	

DATE MAILED: 09/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/995,801	Applicant(s) FUJIWARA ET AL.	
	Examiner Quang D. Thanh	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 July 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) *19-26* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I including claims 1-18 in Paper No. 5 filed on 7/21/2003 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Mrklas et al. (5,304,112). Mrklas discloses a massage machine 55 (fig. 1) comprising a living body information sensor (biological sensors, col. 14, lines 13-19) for detecting the living body information of a user's autonomic nervous system, a control circuit 23 for controlling a massage operation 9 based on the living body information detected by the sensor, the control circuit comprising psychological state estimating means 15 for estimating the psychological state based on the living body information detected by the sensor, and massage movement adjusting means 27 (fig. 1B); (claims 3-5 and 7) one or more sensors selected from among galvanic skin resistance, pulse rate (heart rate) with

higher heart rates being associated with higher levels of stress or tense state and lower heart rates being associated with lower levels of stress or relaxed state(col. 14, lines 13-19).

4. Claims 1,8,10-11 and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Inbe et al. (5,993,401).

5. Re claims 1 and 8, Inbe discloses a massage machine (fig. 1) comprising a living body information sensor (heart beat sensor 11) for detecting the living body information of a user's autonomic nervous system, a control circuit 30 for controlling a massage operation based on the living body information detected by the sensor, the control circuit comprising psychological state estimating means 10/45 for estimating the psychological state based on the living body information detected by the sensor, and massage movement adjusting means 20 (fig. 2 and 8); (claim 8) the control circuit gives different kinds of massages to a plurality part of the person (col. 8, lines 25-30) and adjust the massage movement (by varying different massage speeds/intensity and time durations) for each kind of the massage to be given to each part in accordance to the result of estimation of the psychological state (col. 4, lines 28-60).

6. Re claims 10-11, and 17-18, Inbe discloses a massage machine 1 (fig. 1) comprising a living body information sensor (heart beat sensor 11) for detecting the living body information of a user's autonomic nervous system, a control circuit 30 for controlling a massage operation based on the living body information detected by the sensor, the control circuit comprising psychological state estimating means 10/45 for

estimating the psychological state based on the living body information detected by the sensor by executing a preliminary massage (col. 3, lines 65 to col. 4, line 5) and massage operation adjusting means 20 (fig. 2 and 8); (claim 11) a memory means 42/43/45 for storing the result of estimation of the psychological state, and the massage operation is adjusted based on the result of estimation of the psychological state (col. 6, lines 25-59); (claim 17) the massage operation adjusting means 20 comprising mode changes over means 40 (col. 6, lines 7-24) for switching between a relaxation mode (deep relax level H as shown in fig. 9) and a refreshment mode (light level L, fig. 9) and adjust different massages in the different modes (by adjusting the massage speed); (claim 18) the control circuit gives different kinds of massages to a plurality part of the person (col. 8, lines 25-30) and adjust the massage movement (by varying different massage speeds/intensity and time durations) for each kind of the massage to be given to each part in accordance to the result of estimation of the psychological state (col. 4, lines 28-60).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 3-7 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inbe et al. in view of Coggins (5,792,047). Inbe discloses a massage machine

having all the features including heart rate sensors, except for sensors measuring pulse rate, galvanic skin response or skin temperature. However, Coggins teaches a physiological parameter monitoring apparatus having physiological sensors 16 that can be used to measure pulse rate, galvanic skin response or skin temperature (col. 5, lines 19-25). An increase in the measurement would inherently indicate a stressed or tense state and a decrease in the measurement would inherently indicate a relax state. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Inbe's device, to include one or more physiological sensors that can be used to measure pulse rate, galvanic skin response or skin temperature, as suggested by Coggins, since these sensors are well known equivalent means for measuring physiological responses in the medical art (col. 5, lines 18-25).

9. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inbe et al. in view of Ulrich (6,024,575). Inbe discloses a massage machine having all the features including the massage operation adjusting means 20 comprising mode changes over means 40 (col. 6, lines 7-24) for switching between a relaxation mode (deep relax level H as shown in fig. 9) and a refreshment mode (light level L, fig. 9), the massage movement is adjusted to lower the activity of the autonomic nervous system in the relaxation mode, except that it is silent regarding the massage movement is being adjusted to increase the activity of the autonomic nervous system in the refreshment mode. However, Ulrich teaches a vibrating biofeedback device having a

microprocessor that can be programmed to cause vibrations in inverse relationship to the degree of stress experienced. This would adjust the vibration to increase the activity of the autonomic nervous system in order to prevent a user from dozing off (col. 4, lines 13-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Inbe's device, to adjust the vibration such that it would increase the activity of the autonomic nervous system, as suggested by Ulrich, for the purpose of awakening a driver of an automobile, truck or other heavy equipment (col. 4, lines 17-20). Re claim 9, Inbe further discloses that the massage operation is executed by a sequence of massage movements (S1-S5, fig. 3, col. 4, lines 5-64), and the massage movement adjusting means comprises time adjusting means (to set time period necessary for inducing the user to the relax state, col. 4, lines 5-64) for adjusting the time required for a predetermined number of massages movements so as to complete the sequence of massages movements within the approximately the same period of time.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fukushima et al. (6,123,661) discloses a relax refresh system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (703) 605-4354. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (703) 308-2698. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

Quang D. Thanh
Patent Examiner
Art Unit 3764

August 26, 2003

Danton D. DeMille
Primary Examiner